5 pgs.
/1/87

EXECUTIVE COMMITTEE SESSION

FRIDAY, MAY 1, 1987

Senate Finance Committee

Washington, D.C.

The session was convened, pursuant to recess, at 9:40 a.m. in Room SD-215, Dirksen Senate Office Building, the Honorable Lloyd Bentsen (Chairman) presiding.

Present: Senators Bentsen, Moynihan, Baucus, Bradley, Mitchell, Pryor, Riegle, Rockefeller, Daschle, Packwood, Roth, Danforth, Chafee, Heinz, Wallop, and Armstrong.

Also present: Bill Wilkins, Staff Director; Jeff Lang, Chief, International Trade Counsel, Marcia Miller, Trade Staff, Majority; Josh Belten, Trade Counsel, Minotiry; Karen Phillips and Brad Figel, Trade Staff, Minority.

Also present: Alan Holmer, Chief Counsel, U.S.T.R.; and Robert Jones, Deputy Assistant Secretary, Department of Labor

The Chairman. Will those who are standing please be seated, and those conversing please settle down?

In the order of things, we will recognize first Senator Bradley, concerning a sunset provision he has. I might state, in the way of trying to plan your work for next week, that we will anticipate coming in at 9:30 on Tuesday, and we hope to finish up on Thursday night. That is a tough one to fulfill but I will be asking for permission from the leadership for us to meet while the Senate is in session, and we will have all of these sessions, assuming that we achieve that. It will require that to try to fulfill that time limitation.

If we can do that, we will get the staff on to preparing that report, and they will have sufficient time to do that in great detail, I hope.

Senator Pryor. Excuse me, Mr. Chairman. When is your goal now for finishing?

The Chairman. The goal is to finish up Thursday night. I anticipate that we will be meeting all day on Tuesday, all day on Wednesday, all day on Thursday, and perhaps into the night, to hopefully try to free up Friday insofar as the committee, and we will not be meeting on Monday, also trying to accommodate committee members' schedules. But, by the same token, I ask for the consideration of those members in trying to shorten some of the debate and consolidate some of the amendments where they are very close in gradations of

differences. And in turn, if you don't feel very strongly about an amendment, forget it.

(Laughter)

The Chairman. Senator Bradley?

Senator Bradley. Mr. Chairman, with that introduction, I don't know whether I should --

(Laughter)

Senator Bradley. Mr. Chairman, the amendment I would offer relates to the automatic sunset of retaliatory acts under section 301.

Under the bill before us, if you reach the end of the process and they do not open their market, and you can't find any compensatory actions, you then are left with retaliation, and you retaliate. And the retaliation under the bill lasts for seven years. I would move to reduce that period of time to four years.

The basic rationale for that is that, if you have put a barrier on, say, the export of Japanese nails to the United States, and you have kept that barrier on for four years, and the purpose was really to get access to their market in some other product, and it has not succeeded after four years, then I think the argument is, why do we want to increase the costs to all the users of those nails in the United States beyond four years?

So, this would be a move to reduce the period from seven

years to four years for retaliatory acts under section 301.

The Chairman. Let me understand. If the petitioner asks for an extension of that, or the domestic industry requests that kind of a continuance, then what happens?

Senator Bradley. If the domestic industry requests it?

The Chairman. If they request a continuance.

Senator Bradley. Well, under the bill, if they requested a continuance after seven years it would be no different than if they requested that continuance after four years.

The Chairman. That is what I am trying to determine.

Senator Bradley. In other words, the same thing that would apply at the end of seven years would apply at the end of four years.

The Chairman. So, you have adopted what we have in 490, except the only real change is changing it from seven to four?

Senator Bradley. That is correct.

The Chairman. I know some on this committee would like it to be 20 years, and some would probably like it to be zero. Let's see if we have some further comments on it.

Mr. Lang. Mr. Chairman, may I say that if members are looking for the provision in the spreadsheet, it can be found in the right-hand column on spreadsheet page 61.

The Chairman. Do you have further comments on it, Mr. Lang?

Mr. Lang. I understand Senator Bradley's amendment to be

that he would only change the seven-year period, and otherwise the provisions of the Bentsen/Danforth bill would continue to operate.

The Chairman. Does this mean that in effect what it is is really an earlier review?

Mr. Lang. Right. The way the bill works not, it says that an action will terminate "if it has been in effect continuously during the seven-year period, and neither the petitioner nor any other representative of the domestic industry submits a written request for continuation during the last 60 days of the seven-year period. If they do submit a request, then it sets out a procedure for a hearing and consideration of everyone's views on that request.

The Chairman. Mr. Holmer, do you have a comment on that?

Mr. Holmer. Yes. We have no objection to the Bradley amendment.

Senator Packwood. I think it is a good amendment, too, Mr. Chairman.

The Chairman. All right. Are there any comments?

Senator Rockefeller. Mr. Chairman, simply to say that I agree with Senator Bradley. I think seven years is too long, and I think this does provide in fact more flexibility for the President.

The Chairman. Do you move the amendment?

Senator Bradley. I move the amendment.

The Chairman. All in favor of the amendment make it known by saying Aye.

(Chorus of Ayes)

The Chairman. Opposed?

(No response)

The Chairman. The amendment is carried.

Senator Bradley. Thank you, Mr. Chairman.

The Chairman. Now, Senator Pryor, as we were finishing up yesterday we had some difference of understanding as to what had been worked out, and I hope that has been resolved overnight. I would like for you to proceed, if you are ready, on that amendment.

Senator Pryor. Mr. Chairman, it is amazing what can be accomplished when reasonable men and women get together and talk out their differences and decide that, for the best interests of the country, they would accept this amendment.

The Chairman. Particularly if it is late, and they are all tired.

Senator Pryor. That is right.

(Laughter)

Senator Pryor. In all seriousness, Mr. Chairman, we do feel that we have reached an agreement. I want to make certain that we do.

What we are attempting to do in the Pryor-Baucus-Bentsen proposal in this amendment, Mr. Chairman, we are adding to the

statutory definition of "unreasonable." The language that we would add is this: "In determining whether an act, policy, or practice is unreasonable, reciprocal opportunities in the United States for foreign national firms shall be taken into account as appropriate."

Mr. Chairman, as I understand it, this is the language that is in the House bill. I do believe that at this point at least, putting it into statute, we do have the endorsement and support of the Administration.

Is that right, Mr. Holmer?

Mr. Holmer. Yes. That is accurate, Senator.

Senator Pryor. Mr. Chairman, the second part of our proposal would not deal with statutory changes, but it would deal only with report language change. The report language would state that "these are practices which can" -- emphasize "can" -- "be unreasonable: a) The failure to grant import licenses for competitively-priced products or commodities; and b) The maintenance of prohibitions on the importation of such products or commodities." That would not be in the statute; that would be simply in the report language.

Now, may I ask the Administration, Mr. Chairman, their position on including this in the report language?

Mr. Holmer. Okay. And this is the last item, item 4, on this piece of paper?

Senator Pryor. That is correct.

Mr. Holmer. We have no objection to that provision.

The Chairman. Mr. Lang, do you have comments on the provision?

Mr. Lang. Yes, sir.

I hope a piece of paper has been distributed on this which has four items. Senator Pryor has mentioned the last two. The first two are, first, to provide that the state trading practices defined in the Bentsen-Danforth bill would be part of the definition of the word "discriminatory" in section 301, rather than the word "unjustifiable." That satisfies an Administration concern.

And second, to place in report language, concerning the state trading definition, the state trading practices that Senators Pryor and Baucus were concerned about -- namely, dual pricing and variable pricing.

So, the four components of this arrangement were the two described by Senator Pryor and the two I have just described.

The Chairman. Are there further comments? Questions?

Senator Pryor. I believe Senator Chafee has a comment.

The Chairman. Senator Chafee?

Senator Chafee. Excuse me, Mr. Chairman. Are we on the variable pricing? Is that perforce to discuss at this time?

Mr. Lang. Yes, sir. That would be the material that would be placed in report language to help the Administration

define the meaning of "state trading," which would otherwise be definied under "discriminatory" in accordance with Article 17 of the GATT.

The Chairman. I am not sure if you were here, Senator. The Administration, as I understand it, has no objections to the amendment at this point.

Senator Chafee. I just want to ask, where does our wheat sale to the Soviet Union today fall? Does that fall under any of these, under either the dual pricing or the variable pricing? Where we sell at a special discount price?

Mr. Lang. What we are not sure about is --

Senator Baucus. If I might chime in here, Senator, essentially the U.S. sale to the Soviet Union is a lower price that otherwise is not given us because of the EEP, the Export Enhancement Program. That is, the Export Enhancement Program is a policy we have in place in order to meet other countries' lower prices. That is, if it is reactive, if the United States reacts to lower prices that other countries first initiate.

Now, the variable pricing that we are talking about in this amendment applies to various cases, pointedly to Australia, which goes out and first sets variable prices for her to get markets. We have never done that in this country. We do not affirmatively, in the first instance, initiate a lower variable price. We Americans, on the other hand,

tend to be late-comers to the game. So, what we do under EEP is react to the lower price that another country is first selling at -- that is our Export Enhancement Program.

So, in answer to your question, no, we do not engage in this type of variable pricing. The fact is, we don't engage in variable pricing as this is contemplated.

I can't conceive of an instance where any country is going to bring an action against the United States' Export Enhancement Program; because, in every instance, it is a reaction to probably that country's first either dual pricing or variable pricing.

Senator Chafee. So, it is sort of the difference of who starts first? Ours is just a reaction, and the other people started it all, is that it? I am not being facetious, but I have a little trouble telling the difference. But as I say, my knowledge of wheat is limited.

What do you say to this, Mr. Holmer?

Mr. Holmer. Well, we had some very substantial concerns about the draft of this that we saw yesterday. Almost all of those concerns have been addressed.

I guess two items that we would point out to Mr. Baucus and the committee is, we are somewhat troubled about taking a direct shot at our two strongest allies in the agricultural negotiations in the new Round, namely Australia and the Canadians. And secondly, while this language is now very

artfully drafted to make sure that mirror legislation won't come back to hurt U.S. exports, we don't have complete confidence that our trading partners will draft their legislation precisely as we have in order to meet our concerns.

Senator Baucus. In addition to that, because it is under the "unreasonable" section, there are a lot of outs here, a lot of discretion.

Senator Chafee. Well, am I also correct in saying we have a trade surplus with Australia of about 2:1?

Mr. Holmer. We do have a trade surplus with Australia, I believe. I can check those numbers.

Senator Chafee. It seems so curious. We point in our sights one of the few countries we have a trade surplus with.

Senator Baucus. Again, if I might -- we have a lot of discretion here given still to the USTR, a lot of discretion. We need bring these cases only where it makes the most sense.

Second, it is another arrow in the USTR's quiver that he can or cannot use, depending upon the circumstances.

The Chairman. Are there further comments?

(No response)

The Chairman. All in favor of the motion to stay, make it known by saying Aye.

(Chorus of Ayes)

The Chairman. Opposed?

(No response)

The Chairman. The motion carries.

I would like to bring up at this time some technical amendments prepared by staff to section 301. The first one is the USTR's authority to request the views of the ITC. S. 490, as I understand it, had deleted that authority, and we would restore that authority.

Mr. Lang. Yes, sir.

The Chairman. The second was the modification of retaliatory action upon decrease in burden or restriction. In effect what you are doing is you are adding to it the words "caused by the foreign practice has increased or decreased."

Mr. Lang. Yes. That was requested by Ambassador Woods.

The Chairman. All right.

And the third one would define "subsidization in targeting cases" according to the Subsidies Code. In effect, it is that we have gone to the GATT Subsidies Code, is that it?

Mr. Lang. Yes, sir. Again, the Administration believes that the international obligation would be the better measure of subsidization, rather than domestic law.

The Chairman. And the fourth, quite a technical one, a definition of the unfair trade concessions. In the third paragraph of S. 490, add the word "unreasonably" after the phrase "as a practical matter."

Is that it?

Mr. Lang. Yes, sir.

Senator Danforth. Mr. Chairman?

The Chairman. Yes. Senator Danforth.

Senator Danforth. Let me ask, on that last issue, the question of the FSX, which is a looming problem that we have with Japan, the situation being that we produce attack fighter planes -- as a matter of fact, in Texas and Missouri. And we are able to sell the best in the world to Japan at an estimated price of about $4.5 billion.

Japan is considering whether to develop its own attack fighter planes. The estimated cost of developing and building its own would be about $10 billion.

Jeff, how, if at all, does this latest item raised by Senator Bentsen relate to the FSX question?

Mr. Lang. Well, this solution is suggested by the Administration as a way of avoiding that kind of problem. The idea of unfair trade concessions requirements is that a foreign government requires something in addition to the barrier that has been agreed to in GATT as a condition for importation into their country. And the Administration is concerned that those requirements may sometimes be the kinds of things the United States requires, or that would be consistent with the way business is usually conducted.

The Administration's suggestion is that, if the

requirement is made unreasonably, then it would be considered by the Administration to have been actionable under 301. But if the requirement is made reasonably -- that is, out of commercial considerations, or because it is a government procurement where we frequently make these requirements for transfers of technology -- then, the provision would not be used.

I think the basic effect of this change is to allow the Administration enormous flexibility in the use of unfair trade concessions requirements.

Senator Danforth. Could I just follow up?

The Chairman. Yes.

Senator Danforth. The issue is that oftentimes, particularly on these very large contracts, especially the airplane situation, where we have the technology, where we do build the product in the United States, where it is a contract with the government of another country, especially Japan and I think Korea also, in order to do business with the United States, the other country requires what are called "offsets." In other words, they say, "Yes, it is true that you have the products that we want; but, if we are going to buy it from you, we are going to require that it be built in our country," or "we are going to require the transfer of technology to our country, so that we can build it ourselves."

So that, instead of us being able to sell something that

we make, that is the best in the world, we end up being held up by the other country, which says, "Well, the best we are going to do with anybody is to co-produce it, is to make it here."

The F-15 is a case in point. The F-15 is co-produced in Japan at a price that is twice what it would cost the Japanese to buy it made in St. Louis.

My feeling is that that is just grossly unfair. My question is, does this provision, as modified by Senator Bentsen's proposal, provide for some way of dealing with the offset problem? I think the answer is Yes.

Mr. Lang. Oh, yes. That was the original purpose of this trade concessions requirement idea that you and he introduced, I think two years ago.

Senator Packwood. May I ask Mr. Lang a question?

The Chairman. Senator Packwood.

Senator Packwood. Do we have a requirement in the United States -- I am not an expert on this -- on "Build America" for major military equipment?

Mr. Lang. There are some "Buy America" preferences both for military equipment and for other equipment; and there have been occasions where the United States has made such requirements in connection with purchase of military equipment from abroad, although, in most cases, the United States is a major military exporter.

Senator Packwood. Well, here is my question. I know we require ships to be built here. I don't know about airplanes, but I know all of our military ships must be built here. Is that true of airplanes, too?

Mr. Lang. It is not an absolute requirement, but we have required it in the case of some aircraft manufacture, I believe.

Senator Packwood. What I am curious about is, are we objecting to a practice Japan is attempting to oppose, when it is a practice that we as a matter of fact practice ourselves? I don't know if it is or not.

The Chairman. Well, I think that is the very reason for using the word "unreasonable" -- trying to give some discretion to the Administration.

We just can't anticipate each one of these deals. I look at a situation like the Coast Guard, who went out and bought, as I recall, 90 helicopters and bought them from France. So, we do buy from other countries; we don't totally require it to be manufactured here.

Senator Packwood. I just want to make sure we are not saying to Japan, "You can't make your own airplanes for your defense in your country, even though, as a matter of practice, that is what we do in our country, and we only apparently buy outside if it is something that we need desperately outside and don't make here." I don't know. I am just asking as a

matter of curiosity.

Mr. Lang. I am not sure. I don't think I know all of these facts, either. But one of the important points that Senator Danforth made is that it is much more expensive to produce the fighter aircraft he was describing in Japan than it is in the United States.

Senator Packwood. Well, it was much more expensive to build our ships in the United States than to contract them all out overseas. But as a matter of national defense policy, we just say we have to have a shipbuilding and ship-repair capacity, so we will build them here.

Senator Danforth. I think Alan Homer might have a comment. Do you, Mr. Holmer?

Mr. Holmer. Well, I agree with the comments that have been made, I think on all counts. We believe that this language provides us with the flexibility to do what it is that -- it gives us the flexibility you would want us to have. And we would administer the law accordingly.

The Chairman. Are there further questions?

(No response)

The Chairman. All in favor of the amendments as stated, make it known by saying Aye.

(Chorus of Ayes)

The Chairman. Opposed?

(No response)

The Chairman. The amendment is carried.

Are there further amendments to be offered?

(No response)

The Chairman. If there are no further amendments, let us move into section 201. Are we prepared to do that, Mr. Lang?

Mr. Lang. Yes, Mr. Chairman.

This subject begins on spreadsheet page 29. There also has been distributed, I believe, a legal-sized sheet of paper entitled "Chairman's Proposal Concerning Section 201."

(Pause)

The Chairman. Let me say that the primary objective that we are trying to encourage here is adjustment, usually a forgotten purpose of section 201.

What you now have under section 201 is that neither the International Trade Commission nor the President really has any incentive to consider adjustment. The ITC is charged by law to eliminate the serious injury they have found, and the President is charged to take account of national economic interests.

As a result, most of the industries that get a remedy recommendation from the ITC -- and that is about half of those who apply -- either get their relief reduced, or they get it eliminated by the President.

So, therefore, the incentives to get into the program are really quite low. And most important, protection in this

country is done outside of the escape clause. That is the case in steel, automobiles, textiles, and other areas.

Each time we do that, we lose the use of the leverage that might have been used to induce American companies and workers to increase their competitiveness, and that is what we are seeking. It used to be a minor problem; but, when you have got yourself $170 billion trade deficit, the ITC has become a kind of a Mash unit for American industry that would know where to send the patients.

Our strategy in this bill is to make it more difficult for those firms and workers to qualify for that import protection. By requiring them to show not only that they were seriously injured by increasing imports, but they are willing to do something in the way of capital investments and changing management practices to enhance their competitiveness. In return, we offer to give the firms and workers that qualify for relief some assurance that, if they meet that higher standard, they are much more likely than under current law to get relief. Now, that necessarily means some reduction in Presidential discretion.

But I want to emphasize two important points about reducing Presidential discretion under the escape clause:

First, we are reducing Presidential discretion because that is the best way to make the program more attractive insofar as getting some meaningful result, to accomplish the

basic purpose of promoting positive adjustment in our import-impacted industries. We are sure not trying to punish the President or any other President in the future for refusing relief.

In fact, President Reagan has granted import protection more often than any other recent President. In one case, he raised the duties higher than any other President has raised them; and the result was, the industry was actually able to live without import protection for one year less than was originally anticipated.

Second, we want to leave the President free to make judgments that accomplish the purpose of promoting adjustment. The discretion we want to deny the President is the discretion to do nothing. We want him, for example, to avoid relief where it would threaten to impair the national security. I think that certainly is a legitimate concern and he ought to have that right.

And most important, we want the President to have descretion at some point to refuse to extend relief if the domestic industry, taken as a whole, is not making the positive adjustment we are trying to encourage.

Now, what the staff has done is rearrange the order of things in the Bentsen-Danforth bill a little, to make that provision more workable. They have not changed the basic thrust of what we are trying to accomplish. In some ways, the

President's discretion is increased; in some ways it is perhaps reduced a bit. But I think they have kept that basic objective in mind, what we are trying to achieve.

What in effect we have said is that it really is not practical to require commitments from industries to adjust up front, because each industry is different. The problem you get into -- as we worked on this one, and as we talked to the Administration and talked to people in industry -- is that you might have several companies who would say, "Sure, we will do something about it, and we will spend the money, and we will buy the new equipment; we will modernize; we will get up there where we know we can compete," and then you will have two companies who will say, "We are not about to do anything." And the way we had originally drafted it, that put us in a box in trying to do something, and we have tried to adjust for that to get more discretion. Because if that is how long it takes to gather the adequate data on many of these industries, it is much less relief than industries normally want.

The President has some cards to play in this thing, too.

The domestic industry can only get a longer period of relief if they can prove to the President at the end of the three years that they really have made a serious effort to adjust. So, I think that gives him some muscle, and that is also a notice to those industries that they have to get with it, and they have to show that they are doing that. Then if

document entitled "Chairman's Proposal Regarding Section 201" with the spreadsheet beginning on spreadsheet page 29, and, just by introduction -- for those who aren't familiar with this provision -- the GATT permits the United States temporarily to withdraw concessions, that is, to put up an import barrier, in the event that a domestic industry is seriously injured by increasing imports. The investigation in the United States is conducted by the International Trade Commission, which has six months to make that determination, and uncer current law to recommend a remedy to the United States that will prevent or remedy the injury to the domestic industry.

Under the current law, the President then has 60 days in which to decide either to put the ITC's remedy into effect, to modify it, or to provide no remedy at all. His standard is basically the national economic interest.

Current law requires that the relief recommended by the ITC be digressive; that is, that the amount of import protection be reduced in each year. And there is a limitation of time on how much relief can be given -- five years, with a possible extension of three more years.

I just wanted to give that framework to the committee before we go through these somewhat technical provisions.

The injury standard under the Chairman's proposal would be the same as current law. There is a requirement in the

the Bentsen-Danforth bill that this determination be made at the end of five months, in order to allow the process of determining the remedy to take place. That requirement is carried forward in the Chairman's proposals.

Normally, in current ITC investigations, the injury determination is made about a month before the end of the case, in order to allow the parties to these investigations to accumulate the information they need, to make arguments about how the remedy part of the investigation ought to be constructed.

At the bottom of the first paragraph, labeled "Serious Injury," you see language which carries forward a change to the escape clause recommended by the Administration. The sentence is, "The ITC would also be required to consider the industry's condition over the relevant business cycle, in order to assure that import relief is available during a recessing."

There was an important case a number of years ago in which the Commission decided that the recession was the cause of injury rather than the imports; this tends to make that kind of determination harder to make at the ITC.

That would be added on the spreadsheet at the top of page 29 in the S. 490 column; where it says, "retains current law," this provision would add that Administration recommendation.

don't, the President can cut off that relief, and they are frozen out of any further relief for as many yeas as they received relief.

As under the present law, the President can prevent injury to other industries through foreign retaliation, or our having to pay compensation by negotiating what are called in current law "orderly market agreements." Those are really just agreements to reduce temporarily exports to the United States. That is the same thing that we have in many areas -- as we have in steel.

Now, what is behind this proposal is to give both the President and the domestic industries some cause to play. It is the idea that the industries can get that recommendation of relief from the ITC; but then, they will have to convince the President to give them the longer term of relief.

Mr. Lang, would you go through the staff's document and compare it to what we have in 490?

Mr. Lang. Yes, sir.

The Chairman. There will be more detail than I have just cited. And then we will open this up to any questions that members might have.

I must say that we have done a lot of work with the various staffs of the members in trying to arrive at this, what we hope will be a consensus.

Mr. Lang. Mr. Chairman, I am comparing the long document

In the "Remedy" paragraph, the first sentence of the remedy paragraph in the Chairman's proposal is essentially the same as current law: "The ITC determines the level, duration, and staging down or digressivity of import relief."

The next sentence is, "An increase in the total time allowed for import relief, as against current law, and a reduction as against the Bentsen-Danforth bill." In current law that period is eight years; in the Bentsen-Danforth bill it is 13 years. In this recommendation it is 10 years.

The sentence the Chairman referred to about firms being encouraged but not required to submit plans for adjustment or to make individual firm and union commitments to adjustment measures is shown in the next sentence of the "Remedy" paragraph. That would replace the requirement for plans that you find beginning at the bottom of spreadsheet page 34, and that requirement, which is rather elaborate, continues on to page 35 and 36.

That plan development group, a concept adapted from S. 1860 that many members of the committee co-sponsored in the Ninety-ninth Congress, would be replaced by a voluntary program of submitting the plans.

The next sentence of the "Remedy" paragrapn, "The ITC decides what remedy to give from a menu of import relief and other federal action," carries out a provision of the spreadsheet. You can find the ITC remedy options on page 38

at the bottom or right-hand side of the spreadsheet.

I might mention that the spreadsheet has one slight change, and that is, even under current law the ITC cannot recommend Orderly Marketing Agreements, because of course it doesn't know the negotiating situation. But as the Chairman mentioned, these Orderly Marketing Agreements are an option under current law and would continue to be an option for the President under the proposal you are reviewing.

Senator Heinz. Jeff, may I ask you a question?

Mr. Lang. Yes, sir.

Senator Heinz. Is the policy basically the same policy with respect to import relief -- that is to say, as under current law -- that the ITC is recommending import relief sufficient to accommodate, under the terms of this, positive adjustment, and in addition they may recommend other non-import-related measures, some of which might be within Executive discretion to grant others which might require Congressional action?

Mr. Lang. Yes, sir. Under this proposal the standard for those other actions would be the same as the standard for import side of the relief: Would it help to promote a positive adjustment?

Senator Heinz. Is it possible under this construction that you have proposed to us, that the ITC could go through a thought process that is: If we can get certain kinds of

Executive and Congressional action, we will not need to have quite as much -- or maybe if we can have substantially less import relief than otherwise, and therefore we will recommend that mix, whether or not it may be politically realistic to assume that either the Executive Branch or the Congress may take subsequent action. Is that a possible course of action here?

Mr. Lang. Senator Heinz, this is a very difficult area, because there was a lot of concern that Commissioners would use the alternative menu as a way of avoiding granting import relief.

However, the solution of absolutely requiring import relief in every case was equally unattractive, because the Commission would be locked into a sort of formulistic approach.

The solution was to suggest report language, which you find in the last sentence at the end of the paragraph called "Remedy" in this document, which suggests that the ITC is not to avoid import relief on the ground that it can never help adjustment. There is an affirmative statement that import relief aids adjustment. And that is intended to give the Commissioners the freedom they need to decide these matters on a case-by-case basis, but still to make sure that import relief is part of the package in those cases where it is appropriate.

Senator Heinz. I understand the reading. Here is my

residual concern: Namely, that the ITC may make what in the abstract is a very good determination to help a specific petitioner, who may be either an industry or part of an industry; but at the same time, it may be just totally unrealistic to assume that Congress -- divided as we are geographically and every other way -- will take action on the concerns of such a specific industry or sub-part of an industry.

My suggestion would be that, if there is agreement among the members of the committee on this point, the ITC should also take into consideration the likelihood that if Congressional or Administration, Executive Branch, action is required, that there is a sufficient likelihood of it being obtained.

Now, I understand that that makes for kind of a political judgment, but it is no less difficult a judgment than trying to figure out how much import relief is sufficient to bring about adjustment.

Mr. Chairman, would the Chairman and the committee be amenable to that?

(No response)

Senator Heinz. Without objection, I guess. We are just practicing ventriloquism.

(Laughter)

(Pause)

Senator Packwood. May I ask a question, Mr. Lang, while we are waiting?

Mr. Lang. Yes, sir.

Senator Packwood. Is there anything in the Chairman's provision that allows the President to deny recommended relief of the ITC -- who, as I understand it, only has the purview to pass on "is this industry injured?" Can the President say, "I don't think it is in the national economic interest and, on balance, it is worse for the country than better"?

Mr. Lang. That discretion is in current law, Senator Packwood, but it would not be in the Chairman's proposal. However, there would be two types, two separate types, of exceptions available to the President under this proposal:

First, when he receives the ITC's recommendations on relief, he would be able to refuse to give any relief at all if that would be likely to harm the national security interests.

Second, he would be able to refuse to give relief if to do so would seriously harm another industry, consuming industry, in the United States.

Senator Packwood. But the ITC makes the decision, viewing solely the affected industry -- right?

Mr. Lang. Yes, sir. It decides whether that industry is likely to make -- what relief is necessary to make that industry --

Senator Packwood. It does not make a decision on balancing the economic good of that nation but looks at the one industry?

Mr. Lang. That is right.

Senator Packwood. And we deny to the President the power to make a decision based upon the economic good of the country?

Mr. Lang. The President has one further element of discretion, Senator Packwood, and that is: After not fewer than three years of relief, he has the opportunity to reduce or eliminate the relief, or change it to meet circumstances, if the industry is not making adequate efforts to make a positive adjustment.

Senator Packwood. Yes.

Mr. Lang. But again, that does not include the standard of national economic interests, either.

Senator Rockefeller. Mr. Chairman?

The Chairman. Senator Rockefeller.

Senator Rockefeller. Mr. Chairman, I support this compromise. I also associate myself with the comments that you made at the beginning about having wished originally to be a little bit tougher in terms of requiring companies to adjust and to show ways in which they were going to adjust.

In fact, when we first introduced the bill, that was one

of the features of the bill that I liked the most, because I don't think we have a distinguished history in this country of reacting to the need to become more competitive, until sometimes it is too late.

Now, I understand the language that they are encouraged to do so but not required to do so, Mr. Lang. And I also understand, later on, that the President does have a lot of negotiating room with them and can exercise that if he chooses to. But of course, he may not choose to, because so much of these things are done under duress, political considerations, trade imbalances, and the rest of it.

I think back unhappily in fact to the steel industry, which I tend to care very much about, and I look back to the Carter Administration. I think one of the great errors of the Carter Administration was that they gave the steel industry a great deal and exacted nothing from them. As a result, the steel industry took advantage of that and became rapidly uncompetitive -- for that and a variety of other reasons. Then, along came safe-harbor leasing in another Administration, and U.S. Steel and others made major purchases and in fact they became, indeed, much more competitive, but not in the steel industry. U.S. Steel now is about 65 percent in the oil and gas industry and about 35 percent in the steel industry, which is fine for some and not so fine for others.

So, my concern is, as we reach this compromise, which I

will support, that the message of requiring a company or an industry to become more competitive is still a crucial consideration, I think, in proper 201 implementation.

Now, I don't have a suggestion. I frankly prefer the original language, and I understand that perhaps we are not going to get that, and I want to support the 201 effort -- but I am wondering if, in report language or in some other way, we can indicate as a finance committee, if indeed it is our will to do so, that we want to see specific commitments reached in some manner.

Now, I understand when you get to page 34 and 35, when you get groups of people together -- the Secretaries of Labor, Commerce, the USTR, personal staff, industry representatives, labor, all kinds of other things -- you are talking about a very long process. But on the other hand, if we are going to tighten ourselves up and make ourselves more competitive --

I was talking to somebody the other day, a labor leader, who went down to Florida to get his workers to take a 20-percent pay cut on a power plant construction project. They did do that, and they did do that reluctantly. Then, three weeks later, management came in with a 35-percent increase for their own salaries. Now, this is not the stuff of a more competitive America.

And part of my understanding of this 201 section was that

we were to grant relief, we were to be helpful, we were to ease adjustment -- but we were also to be firm on the business of insisting that America become more competitive where we could do so, and that we would encourage that in this bill. Now, we are, in this compromis; but we are not doing it so strongly as either I think feel, and as I listen to the Chairman I know that he feels, that it ought to be done so.

So, what would be your recommendation? Can we do that in the report language? Can we find some way to indicate the intent of this committee that we still care very much about the requirement that, if you come to the Government for something, you have to bring the Government something, too, in the way of commitments for the fugure, not just leaving it up to a President alone, because he often has to operate under duress and without much time.

The Chairman. Senator, I think we can do that. I think we can put that in the report, and I sure share the objective.

You know, there are situations in this country where it isn't because of a lack of judgment on the part of management or the hard work on the part of labor.

I look at the situation where, back in 1980, if in Texas you were working in the oil and gas industry or you were working with semiconductors, you looked awful smart, and things were going well. And then all of a sudden you had things change almost beyond the control -- not almost, beyond the

and that there are human dislocation problems, and so forth.

But the fact is, the premise of section 201 is that no country has done anything that is unfair. And if that is the case, it seems to me that there should be a greater burden on the part of the affected firms or industries to adjust, to do what has to be done, so that it can compete more thoroughly.

I must say I understand this is a vey, very complicated area, but it is complicated because it is a new area for this country. We are trying to experiment, trying to plow new ground, trying to figure out where to go here, and the degree to which we should require adjustment and the degree to which we should not.

I am reminded of New York's bailout, of Chrysler, or Lockheed. Those are not entirely analogous, but in each of those cases, those three entities were under very severe requirements, and it worked. In fact, Uncle Sam made money on New York with a net return to the general treasury, with very significant and severe requirements that were placed on the City of New York in order to qualify for those guaranteed loans. The same was true, as I understand it, with Chrysler and Lockheed bailouts, if you could call it that. Chrysler has survived. It has done well, under very strict conditions.

So I think it is true that in come cases as in the oil and gas, the problem was caused by external consequences that management and labor could not perceive. But in some of these

control -- of people in that business. Then you had thousands and thousands of people laid off. You see that repeated around the country.

I think that we have to do something to encourage adjustments by those companies to the economic changes and circumstances. In some cases, they have no longer become competitive, and there are some of those companies that will never survive. And we understand that. But everything we can do to encourage the adjustment for that purpose, that is what we wnat in this. And I would have locked it up tighter than we finally are doing here, as you have suggested, except for the problem that you can't get all companies to respond in a like manner. So, you have to give some discretion in there, and that is what we have done.

Senator Rockefeller. Can we reflect that in report language, though? That somehow a further underpinning of our determination to see this done to the extent possible?

The Chairman. Yes. I would be delighted.

Yes, Senator Baucus?

Senator Baucus. Mr. Chairman, I very much agree with what my colleague the Senator from West Virginia was saying. But I think we have to remember that this is a "fair trade" provision of section 201. I mean, the general premise here is that other countries have been fair, to the degree that they are the cause of injury in our country, but just that we are injured,

cases I think that management has not been as hardworking and industrious as it fairly could have been, not as smart as it could have been, a little lackadaisical, a little lazy, I think, in some of these instances.

So, frankly, I am not happy with this measure right here. I wish there were some way we could revisit it to try to find more ways to encourage industries to be part of the process more. I am afraid that, after three years, the industry is going to come back and say, "Well, you know, we need three more," and so forth. I just wish we could lock this into a little more tight language.

The Chairman. Well, what we have done with that three years is of course to have an earlier review and let the industry know that is what they are up against, and that they had better get with it or they are not going to get an extension of that.

I must say that we have labeled this "The Chairman's Proposal," but we have had a tremendous amount of participation. And as I look at the Senators who are here, it has been particularly these Senators that have been involved in the process, in trying to come up with a consensus -- which hopefully this is.

Senator Armstrong?

Senator Armstrong. Mr. Chairman, I agree with a lot of what the Senator from Montana has sais. I think he is about

one or two jumps ahead of me on this. But I want to be just absolutely sure we are calling a spade a spade here. What is termed "positive adjustment relief" really means that the President, upon the recommendation of the ITC, is going to have to do something to raise the price of imported goods to a level which permits the corresponding U.S. supplier to compete. Isn't that what we are talking about?

The Chairman. That can certainly be, in effect, a major part of the relief and will be anticipated.

Senator Armstrong. Well, is there some other aspect of it that I haven't thought about?

The Chairman. No.

Senator Armstrong. In other words, what we are really talking about is, if somebody is sending stuff into this country at a price below that at which our supplier --

Senator Packwood. And no argument of "unfair trade."

Senator Armstrong. I was just getting to that.

So, what we are really talking about here is that if, fair and square, as Max points out, some foreign supplier produces this stuff, sends it across the ocean or around the world, and can land it at Dubuque, Iowa, or someplace, in competition with our local industry, that we are simply going to say to the President -- and as I understand it, in this we are virtually requiring him to do so -- that he has got to figure out some way to jack up the price of the foreign goods

so our people can compete successfully.

The Chairman. The other side of it is that they are going to have to show that they can be competitive, and that they are going to do some things that will bring that about. And I just happen to believe that there are instances in this country where, yes, there is a price to be paid by consumers for a short period of time in order to have that viable industry here and the jobs here. So, that is the compensation, as I see it.

Senator Armstrong. Mr. Chairman, is the showing that at some future date they will be competitive without this special advantage a precondition to receiving the relief? I didn't see that in here.

The Chairman. No, it was dropped. It is only in part.

Senator Armstrong. Could we put that in there?

The Chairman. Could you speak to that, Mr. Lang?

Mr. Lang. Yes, sir.

The idea of positive adjustment that the ITC is looking at is that the firm will take steps that will make them competitive, once the relief is removed; or, provide for some other positive adjustment.

Senator Armstrong. Is that a legal requirement?

Mr. lang. Yes.

Senator Armstrong. It is a legal requirement?

Mr. Lang. Yes.

Senator Armstrong. Is that your understanding, Mr. Chairman?

The Chairman. That was my understanding of what we were trying to achieve.

Senator Armstrong. In other words --

Senator Packwood. That is not my understanding.

Senator Armstrong. Just to reduce this to its simplest terms, so we all understand it the same, in order to get a price increase, or a quota, or a tariff, or whatever it is, the industry or company affected has to be able to make a convincing showing to the ITC that at the end of some specified period they will be competitive without this?

Mr. Lang. Or will make some other positive adjustment.

Senator Armstrong. Well, let the record reflect that the Senior Republican on the committee says No, and the Administration says No, and I am just here to learn.

(Laughter)

Senator Chafee. But, Mr. Chairman, I thought that was the big change.

The Chairman. Well, there is some change in that now.

Mr. Lang. Yes, there is a change in the standard. If we can look at spreadsheet page --

The Chairman. We still do everything we can to encourage them to show that they can do those things. But as far as it being absolutely mandated, we made a change on that.

Senator Heinz. Mr. Chairman, could I make an attempt to resolve this difference of opinion here?

The Chairman. Fine. We would be delighted to have you try.

Senator Heinz. Jeff, as I understand the way the process works, you have redefined what is required of an industry as positive adjustment, and that is either to become competitive when the import relief is ended, or to in effect redeploy assets so that the industry, although smaller, can survive.

Senator Armstrong. Is that required?

Senator Heinz. Those are the two bases on which they may just import relief -- one or the other.

Mr. Lang. Right.

Senator Heinz. And one or the other are "positive adjustments." That is the definition of "positive adjustment."

Second, although there is no absolutely binding requirement that individual firms or an industry as a whole, or their workers or the various constituents of that industry, come to the ITC and say, "We promise to do X, Y, and Z."

As I understand the way the legislation is constructed, you say that the petitioners are encouraged to go to the ITC, and therefore that the ITC is going to take into account, in the fashioning of their remedy facilitating positive adjusment, the kinds of showings if any, or as many as there are, in determining what they are going to do either to or

for that industry.

So, although there is no mandated required effort, is it correct that the ITC will vary the amount of positive adjustment import relief -- which I think is what everybody has on their minds -- depending on what the industries or companies or workers come forward and show them that they are going to do? Is that correct?

Mr. Lang. Yes, absolutely.

The Chairman. I think that is a fair statement.

Senator Armstrong, let me put it this way: As I have stated in my earlier statement -- I am not sure you were here for my opening statement -- we got just as close as we could get them to mandatory without it being just that.

In the beginning, it was mandatory, and that is what I wanted. But we ran into that problem of having three companies that say, "Yes, we are going to do it," and the fourth one saying, "We are not." How do you handle that? You don't then ignore the three and say, "We are going to forget the whole thing."

Senator Armstrong. In other words, where you have an industry that has four companies in it, and one of them declines to cut the salaries of its top managers or to reduce its fleet of corporate jets --

The Chairman. Yes, whatever.

Senator Armstrong. -- or whatever it is, cut the workers'

salaries.

The Chairman. Yes.

Senator Armstrong. Could we hear from the Administration?

The Chairman. Sure.

Senator Armstrong. I don't think we are completely in sync on this.

The Chairman. Mr. Holmer?

Mr. Holmer. Well, on this specific issue, Senator Armstrong, the proposal states that either an industry is going to be able to compete successfully with imports after the relief period, or it is going to be able to adjust out and move into other pursuits.

I have been trying to find out what the texture is behind this, but it doesn't strike me as being significantly different from current law. Basically, an industry now can either attempt to obtain relief so they can become more competitive, or they can attempt to obtain relief so they can adjust out.

Senator Armstrong. In other words, if I am a frisbee manufacturer, and I am being ruined by the fair but nonetheless cheap competition of the overseas frisbee makers, I can come in and get relief for a three or five year period by showing, not that at the end of that period I am going to be able to compete in the international frisbee market, but that given a few years of relief I will have a chance to reduce my existing inventory, sell off my machinery, and get into the

widget business in which I think I could compete. Is that the essence of this?

Mr. Lang. Yes.

The Chairman. That is in it.

Senator Armstrong. Mr. Chairman, then I would like to ask two additional questions. Does this apply to all imported products?

Mr. Lang. Yes, it does.

The Chairman. I don't know of any exceptions. Are there any exceptions?

Senator Armstrong. Does it apply to oil?

Mr. Lang. The escape clause is available to any industry that applies, but the industry has to demonstrate that it is seriously injured before it is eligible for any relief.

Senator Armstrong. I believe there are oil companies who could make such a showing and be very convincing about it. And if the standard is that you get a few years of relief by raising the price of the imported commodity, and what you have to show is that at the end of the relief period you are going to be able to redeploy your assets into something that is more profitable, my guess is that it would be pretty hard under that standard for the ITC to not impose some kind of a fee or duty or quota on imported oil, and we would face the spectacle first of all of the cost of fuel oil in the Northeast going over the moon, and then all the oil companies explaining how

they are going to redeploy their assets into other and more profitable lines of business.

Have I overlooked something in this analysis?

The Chairman. Mr. Lang, would you care to comment on that?

Senator Daschle. The only thing I would say would be that the exceptions that you outlined earlier dealing directly with national security, I think, in this case would apply. Would it not, Jeff?

Senator Armstrong. Well, the argument is really -- I mean some people make the argument -- that we ought to have an oil import fee, anyway.

Senator Packwood. For national security.

Senator Armstrong. For national security.

Senator Chafee. To help national security.

Senator Armstrong. Yes.

Senator Daschle. But the scenario that you drew said that the oil companies would get into something other than oil, that they would use the transitional period to get into something more profitable. If it were on that basis that the President had to make the decision, I think he would probably preclude making a decision based upon the fact that they would be jeopardizing national security by making us more reliant on foreign sources of oil.

Senator Armstrong. That seems to me fairly slender assurance. I would hope we could think about that a little.

I have not thought it through to a conclusion, but it appears to me that the very last thing we would want to do would be to permit the outcome that I just mentioned. Maybe it would never happen, but it seems to me that it would be the first thing that would be requested.

The Chairman. Mr. Lang, would you care to comment?

Mr. Lang. First, there are a number of hurdles you would have to meet to get to that point, not only serious injury, but increasing imports have to be a substantial cause of the serious injury. The oil industry has never applied, at least in the past, because it has not been able, apparently, to meet that standard, even though a number of times it has had difficult times.

And also, you have to remember that the President has a complete exception from giving any import relief if it would cause serious harm to downstream industries. And in the case of oil, which is a component of the production of a lot of domestic products, the kind of price increases that I think you were talking about, Senator, might give the President the use of that exception.

The Chairman. That is the argument; the petrochemical industry is a downstream industry.

Senator Armstrong is seeking recognition.

Senator Armstrong. Mr. Chairman, before we leave this issue entirely -- I don't want to bog down on it, although it

may be one of the most important issues in this bill -- it appears to me that the standard by which the President measures this is very flexible, and it might be that, for the reason Mr. Lang has said, even if the oil industry were to apply and the ITC were to enter a finding, that he would say, "Well, it is in the national interest not to do it because of the injury to downstream suppliers."

But that does not seem to me to be entirely foolproof, because pretty much the same argument can be made about widgets or anything else that is a factor in production. So, the only difference between that and the oil industry is the sheer magnitude of the industry.

I would like to invite the committee to at least think about some way to solve this problem in a more certain manner. One way to do it would be to include in here a reference to damaged consumers, because in a lot of cases we may see little or no substantial injury to downstream producers but a horrendous damage to consumers. So maybe that is a way to get at it.

Senator Packwood. Well, in some cases you have no downstream producer. Imported footwear. Here comes the footwear industry and it petitions the ITC. And the ITC can only consider a petitioning industry in is it injured by imports. So, they make a decision: Yes, these imports are selling at a lower price and they can be made here; and then

the report language in the bill presumes import relief -- that is the direction they want you to go: quotas, tariffs, whatever it might be. Only the Commissioners who find injury are even allowed to vote on the remedy. If by chance you didn't find injury, you are precluded from making any judgment as to what the remedy ought to be.

Now, for the shoes, for the people that now buy shoes at $9.95 or $14.95, they are going to go to $19.95 or $24.95. There is no downstream producer that buys these shoes, unless you mean the MC-2A, but I don't think they are buying shoes in that bracket; I think it is a much higher bracket.

It now goes to the President. The President cannot say, "I don't think it is in the national good that people can no longer buy these shoes for $9.95 or $14.95." That decision is taken away from him. And the ITC never could consider it.

Well, I would like to think that that is one of the factors upon which a decision to impose tariffs or quotas -- one of the factors -- that both the ITC and the President could consider.

I will have an amendment to offer that the President can consider the national good in deciding whether or not to impose relief. It is a little more specifically defined than "national good," but it relates to the national economic wellbeing. And I will offer that amendment at an appropriate time.

Senator Armstrong. Could you mention "consumers" specifically?

Senator Packwood. I can try to draft it to mention consumers, yes.

Senator Armstrong. Thank you, Mr. Chairman.

The Chairman. Let me say, Senator Armstrong, when you talk about "further time," we have been two weeks working at this, and we have had the staffs of virtually every member of this committee involved in this process, coming up with what we thought. And obviously, consumers are considered as you are looking at these things.

But there is an important factor in trying to see if we can't retain an industry if we think it is important, and if they are given a temporary relief that those jobs can be kept in this country and the industry sustained. I think that is something we are trying to achieve here, and I strongly support it.

Senator Armstrong. Mr. Chairman, I am not trying to have the last word, but let me say I agree with what you have just said. But at least, from my limited perspective -- and I have an industry or two in my State that probably would apply for an qualify for help under this section, and I am completely sympathetic to what you have said -- the way this is presently drafted really gives rise to some serious potential abuses, in my opinion. I was just trying to explore it enough

to see if there were ways that we could focus it a little more tightly so that it didn't turn out to be abused.

The Chairman. Are there further comments on that?

Senator Chafee. Mr. Chairman?

The Chairman. Yes, Senator Chafee.

Senator Chafee. Thank you, Mr. Chairman.

This is a very major section of the bill, as we all recognize. I would like to hear Mr. Holmer briefly say how the Administration has made out with section 201. What is your view on these major changes, briefly?

Mr. Holmer. Very briefly, the last six-plus years there have been six cases that have come to the President. Four of those six cases -- specialty steel, carbon steel, wood shakes and shingles, and motorcycles -- the Administration provided very meaningful relief for the affected industry. Only in two cases -- copper, where there were far more jobs jeppardized, with respect to copper fabricators, that were at risk compared to the number of cooper miners' jobs that might have been saved had we denied relief; and also in the case Senator Packwood noted, footwear, where we found there was a $3 billion retaliation bill and a $3 billion consumer cost, and the analysis was that import relief wasn't really going to make any difference with respect to what part of the industry lived and what part of the industry died.

It seems to me, with respect to the issue generally:

Senator Baucus noted that this is the fair trade statute. The committee, it seems to me, has not yet addressed what I consider to be the most important issue with respect to the fair trade statute: it gives us an opportunity to provide a legally-permissable form of protectionism. But when we do that, if we are going to put up a barrier to fairly-traded imports under the international rules we have to pay. And the result of that is, we have to work out either a compensation package to lower our tariffs, or our trading partners, if we don't reach an agreement, have a right to retaliate against U.S. exports -- it is zero-sum gain.

Essentially, you are trading off import relief for one industry, often one of our least competitive industries, in exchange for import relief to some of our most competitive export-oriented industries such as agriculture or aircraft or chemicals, or may other products. We saw that in the EC Specialty Steel Case; we saw it in the Canadian Wood Shakes and Shingles Case.

It just seems to us that each of the proposals that is before the committee -- in terms of the bills, S. 490 and the House bill and the Administration's bill -- each of them has as its principal focus tring to enhance America's international competitiveness. And I just can't for the life of me determine how it helps America's competitiveness to make it easier to get import relief for some of our less competitive

industries at the expense of our most competitive export-oriented industries. And that is the principal concern that we have with the limitation on Presidential discretion.

The Chairman. Senator Chafee?

Senator Chafee. Mr. Holmer, as I see what we are doing here, it is clear that the ability to get relief under a 201 case is vastly enlarged, and that, as I understand it, is principally because of the mandates upon the President, with very few exceptions. Is that correct?

Mr. Holmer. That is certainly the way I read the terms of the proposal.

I should note, Senator Chafee, that at least in a couple of respects there are improvements, from our perspective, that have been made in the Chairman's proposal compared to S. 490. But the limitations on Presidential discretion, in particular, are why we feel we must strongly oppose it.

The Chairman. I would respond to that by saying we have made it tougher, not "easier" but "tougher," to qualify for the relief. But once they have qualified for it, we have given more certainty that that relief will be granted.

Senator Chafee. Mr. Chairman, this conversation got started, I believe, based on the question of whether the domestic industry should submit plans for adjustment. You indicated that you felt that you were sympathetic to that, but you felt that we could mandate it. And then the Senator from

West Virgins proposed some report language.

Mr. Chairman, at the proper time I would move or urge that we make it in the statute. Now, I think it is possible to do that. It seems to me the difficulties arose because of this tri-partite arrangement in the S. 490 about the Secretary of Labor and the Secretary of Commerce and heads of departments, and so forth and so on.

I think it is possible to demand from the industry that they submit a plan, and that that be considered; and therefore, when you come up to your idea of monitoring, the President has something to go by -- they have a plan which has been submitted with points one through 10 that the industry says they are going to achieve in the period, and the President then can look at it and say, "Well, did you do A, B, C, and D?" He then can permit the extension fo the time or not permit the extension of the time based on something specific. That is my first point.

Second, Mr. Chairman, I must say I am just very disturbed over the provision that only ITC Commissioners who find serious injury would participate in recommending a remedy to the President. I have never heard of anything like that. Has that ever existed in anything? When the court makes a decision, the majority makes a decision; but there is an opportunity for a dissenting opinion. And I think the President should have the advantage of considering all views as to what remedy should

be imposed or granted, and not be deprived of the views of those others on the ITC.

So, at the proper time, again, Mr. Chairman, I would move to eliminate that provision, which I find extraordinary.

The Chairman. Senator Heinz, I would think that you would want to respond to that.

Senator Heinz. Yes, Mr. Chairman. I am going to end up with a question to staff, but there are a number of things I would like to respond to.

First, to Alan Holmer, I would hate, Alan, for you to leave the record uncorrected. You indicated, in response to a comment or a question from Senator Chafee, that if the President didn't have complete discretion here to do what he wanted to do, the inevitable result would be that we would be trading off protection for an uncompetitive industry, to the disadvantage of our most competitive industries. That is what you said.

Now, let me tell you, that isn't the way it works, and you know better than that. When we grant relief under section 201, there is a claim of compensation, and the compensation is usually directed at duties that we impose on products. What we end up doing is negotiating and searching around for a duty area, which frankly isn't going to hurt anybody very much, it is usually on a product where the industry is pretty well protected and probably doesn't need it.

So, I really think you ought to retract, just as a matter of accuracy and fairness, the characterization that anytime import relief is granted to one of these industries, a high tech industry is going down the tubes. That is just not the way it works. Isn't that right?

Mr. Holmer. Well, what I said at the start of my remarks was, one of two things has to happen: Either we are able to negotiate out a compensation agreement with our trading partners, or, failing that, they have a right to legally retaliate against our exports.

I just wanted the committee to know that that is exactly what happened in the Specialty Steel Case in 1983, and that is also what happened in the Wood Shakes and Shingles Case in 1986.

Senator Packwood. They have a legal right to retaliate -- or compensation.

Mr. Holmer. Yes. And Senator Heinz is correct, that the first priority or the preferred objective is to obtain a compensation agreement. But the committee needs to recognize that there are circumstances where we are not going to be successful in doing that.

Senator Heinz. I also want to just respond and say, after listening to some things that Senator Chafee said, that as I understand Senator Chafee's point of view, it is that he is going to offer an amendment to require that industries make

stern commitments which they can't back out of to the ITC.

On the surface, that has a good deal of appeal. Indeed, I introduced legislation back in 1983, S. 849, that mandated such a process. But I did something that Senator Chafee apparently is unwilling to do: I guaranteed that if the industry did make legally-binding commitments, the President would have no discretion at all. It seems to me that what Senator Chafee wants to do is have the industries make totally binding commitments and then guarantee that the President has total discretion not to do anything.

(Continued on the following page.)

Senator Heinz. And I find that grossly unbalanced and obviously infeasible as well because most of the industries that come to the ITC are fairly small. Where there are lots of small firms and very few large ones, it is very difficult for them to make commitments to get together--there are so many of them.

And as a practical matter, I don't know even if they were willing--a majority of them, or a significant number of them--how you would treat the fact that there would be a lot of little firms that might not even know what the International Trade Commission or what the statute requires.

I might also add that, on the question of ITC Commissioners, it was current practice until recently--within the last few years--that ITC Commissioners who voted against injury did not vote on the remedy provision; and I think that is correct. Is that not correct, Mr. Lang?

Mr. Lang. Yes, sir. That is correct.

Senator Heinz. Before I get to my question, the bottom line therefore is that what the Bentsen bill does at this point is basically to codify something that was for a very long time current practice.

Mr. Lang. There have been very few commissioners who voted on remedy if they voted negative on injury. I am not sure exactly how many; I can think of perhaps four over the last 30 years or so.

The Chairman. Gentlemen, let me interrupt here for just a minute. We have a vote at 11:40 and I would like to terminate debate on this no later than 11:15; and Senator Packwood, as I understand it, will have an amendment.

Senator Packwood. I am ready to do it right now, if you would like.

The Chairman. And we can get a vote on that. I would like to avoid coming back this afternoon.

Senator Heinz. Mr. Chairman, may I ask just one last question of the staff?

The Chairman. Yes.

Senator Heinz. Jeff, I have a question regarding Presidential action, where the President can change the form but not the amount of relief, is that to say he can or cannot give relief through the form of an OMA?

Mr. Lang. It is to say he can.

Senator Heinz. He can?

Mr. Lang. The same as current law.

Senator Heinz. Now, could he give relief through the form of a VRA as he has done in steel?

Mr. Lang. Under this proposal, we are just incorporating current law in the OMA concept, but it is really almost a similar kind of thing. The question is whether or not all the countries are covered, I suppose. Essentially, they are the same vehicle.

Senator Heinz. So, the President can say, well, I can impose a quota but I would rather do this through a voluntary restraint agreement?

Mr. Lang. Oh, yes. There was a great deal of discussion, Senator Heinz, about trying to set up the incentives so that the President would be encouraged to negotiate OMAs because then the cost of the protection doesn't fall on any other domestic industry.

The OMA alternative has not been used very readily in the past, and the purpose was to try to encourage the President to use OMAs as frequently as possible.

Senator Heinz. And with respect to VRAs, I suppose it is theoretically possible that a President could say this industry has met the various tests, the ITC has recommended neither a tariff or quota, but I am going through VRAs to get an equivalent amount of import relief. And he would be permitted to do so under this statute. Is that right?

Mr. Lang. Yes, sir. There is a slight technical difference between the two things, but basically I think the answer is yes.

Senator Heinz. And as a result, if he did pursue that route, there would be possibility of either any claim of compensation or claim of retaliation. Isn't that correct?

Mr. Lang. If he negotiates the OMAs, that would be the purpose. Yes.

Senator Heinz. And also with VRAs?

Mr. Lang. Yes, with VRAs. Alan may want to respond to that.

Mr. Holmer. Yes. Senator Heinz, my view of this proposal is that, as a legal and as a practical matter, it would have precluded the Administration and the President from accomplishing what we did in terms of openly negotiating 19 voluntary restraint agreements around the world affecting all steel products. You know the 1984 case better than I do; but what happened there, as I recall, is that there was injury found on five industries, no injury found on four of the steel industries, one of which was pipe and tube.

The end result was, under this, it seems to me the President would have been required to provide import relief to plate and sheet and other steel products, no relief to pipe and tube, with enormous diversion from plate and sheet into pipe and tube, causing great discomfort to U.S. Steel, Lone Star Steel, and other companies that produce pipe and tube for the United States.

Senator Heinz. That is why I am pursuing this line of questioning. As staff describes it, there is a disagreement between you and staff as to what would be permitted. I respect both of you, and I guess that needs to be clear in the language, whether or not we can live up to--

I think we can only make sure that we both have

legislation that we want to be the same on this issue; and if it is the same, by the way, if VRAs would be permitted so that you could avoid the problems of circumvention, then it seems that some of the principal arguments against the legislation--raised in part by the Administration, but also by some of my colleagues--would be equally defanged, because their worst fears, which presumably would be things happening to export industries, would be accommodated.

Mr. Lang. The difference between this, I think, is the circumvention provision in the proposal. If you will look at the monitoring paragraph in the proposal, you will see a sentence about circumvention; and the idea is that the President should be free to negotiate and change the relief in such a way as to avoid circumvention.

But Alan may be right. At the beginning of the process, you may want to consider whether you want to be able to expand the relief option--at the beginning of the process. What we did was carry forward current law in that regard and give him the circumvention opportunity.

Senator Heinz. Why shouldn't we give him the right to modify the relief to avoid circumvention? It is good to have it under monitoring; why isn't it good to have it up front? And that would allow him to do VRAs as well.

The Chairman. Mr. Lang, do you see a problem with that?

Mr. Lang. Yes. The problem we were trying to address

was that under GATT our obligation is to prevent an injury to an industry that has been seriously injured.

The Chairman. That is what?

Mr. Lang. Seriously injured by increasing imports. So, the difficulty is that you will be providing relief to an industry that had not made that showing, but it may be possible for you to frame a provision that, so long as countries are agreeing to the OMA--which of course they would be; that is the whole idea of the Orderly Marketing Agreement--the agreement would not come before the GATT because there wouldn't be an objection to it.

You might be able to avoid the problem; but in any event, the reason we got into this difficulty is because we were trying to adhere precisely to the GATT standards.

Senator Heinz. So, the way to phrase it would be in terms of an OMA. He might modify relief under an OMA instead of VRAs. to avoid circumvention?

Mr. Lang. I think what you might want to do is allow the President to modify the relief at an earlier stage than he is free to reduce or eliminate the relief.

Senator Heinz. I beg your pardon?

Mr. Lang. You might allow him to modify the relief at an earlier stage than he is free to reduce or eliminate the relief.

Senator Heinz. So, you are saying he could modify the

relief to avoid circumvention, say, after one year?

Mr. Lang. Right.

Senator Heinz. That would accommodate that problem.

Mr. Holmer. But that is a lot of damage for the pipe and tube industry while you wait for a year --

Senator Heinz. It took two years for the Administration to get their VRAs --

(Laughter)

The Chairman. I recall that very well.

Senator Mitchell. Mr. Chairman?

The Chairman. Yes, Senator Mitchell?

Senator Mitchell. I know you want to terminate the debate, so I will be very brief. I had originally wanted to comment on the cause and relationship of the relief inevitably causing an adverse effect on the exporting industry, but Senator Heinz has already covered that, and I really do associate myself with his remarks, but I would point out that in some instances that may be somewhat of an overstatement --

The other point I wanted to make is on Senator Chafee's remarks--and I am sorry that he has left the room--that the limitation in this provision that only those Commissioners who find serious injury would participate in recommending a remedy is somehow analogous to depriving minority members of a court from expressing a view. I think that is not

correct. In other words, this is a two-stage process, whereas the court decision is a one-stage process. The decision with regard to injury is analogous to a court decision.

There, the Commissioners who disagree are able to and do. It is only in the second step, recommending remedy by the President, that Mr. Chairman, your proposal limits it to those of injury. So, there is no analogy to a court decision. There is no analogy to deproving dissenting members of expressing their views.

Senator Chafee. I am sorry, Mr. Chairman, but I missed that part. Excuse me.

The Chairman. He has made an interesing point.

Senator Mitchell. You made the argument that this provision is analogous to depriving members of a court who are in a minority from expressing their views; and I do not agree with you because this is a two-step process. And the initial decision by the Commission with respect to injury is analogous to a court decision, and there, the Commissioners who are in the minority are free to and in fact do express their views, as do dissenters on an all-type member court when a decision is made.

The limitation here applies only to the second step of this process, when a remedy is being recommended to the President. So, there may be valid arugments in opposition to this provision, but an analogy to a court is not one of

them because this is a different procedure. It involves two steps, where the court decision is only one. I will cut it short, Mr. Chairman, in the interest of time.

The Chairman. I might further state that they have moved the time of the vote to 11:30.

Senator Packwood. 11:30?

The Chairman. So, why don't you proceed?

Senator Packwood. Could I have my amendment passed out? This is on Presidential action.

Mr. Chairman, while it is being passed out, let me summarize very quickly as best I can what I think this situation is; and I am going to generalize--and part of it is political generalization--and then be very specific.

I think what we are up against here is this. We are now down to a division as to the kinds of industries we are talking about; and by and large, those that seek protection are older, more likely to be unionized, more likely to be slightly rigid in work rules, and management thinking. I don't lay this strictly on unions; they are likely to have been created prior to World War II, and they have foreseen the foreign competition coming for a long time.

This does not result from some magic invention in Japan in 1979 that revolutionized the apparel and the textile industry or the auto industry. You could foresee it coming; but for whatever reason, the industries did not take the time

that they had to adjust in 1965 to 1975 and on. And now they will come to the ITC and ask for relief.

And here is what the ITC is going to be up against. In comes a petitioning industry saying: We are being injured by imports--fairly traded imports--no allegation of unfair trade. We are being injured by fairly traded imports, and we want relief. The ITC goes through a hearing and they find that indeed the lower priced imports are causing fits with the industry. So, they say, all right, you are injured.

At that stage, the Commissioners have voted for injury and now vote for the relief. And the relief is presumed, in the Chairman's bill, to be import relief--tariffs, quotas, or whatever it might be--and because we are putting in this relief against fairly traded imports, we can expect legal retaliation or legal demand for compensation, which will be taken out of the hides of other American industries, which are able to compete and which didn't even have a dog in this fight. They weren't even before the Commission.

And when the Commission makes its consideration, it cannot consider the general public good. What it can consider is whether or not this petitioning injury industry is injured by fairly traded imports. Having now been very narrowly circumscribed in what they can consider, and the Commissioners who agree that there is injury having now proposed relief --a 20 percent tariff, 20 percent quotas, whatever it might

be--it goes to the President. And the President cannot consider the general public good. He cannot consider the consumers. He cannot consider whether or not this may cost more jobs generally than save more jobs generally.

The President is limited to reviewing the relief of the International Trade Commission some type of discretion to change it, but it has to be a change and roughly the same quantity, and then hope that subsequently the industry is able to adjust. And I think for us to say, as a major nation--who cannot pluck ourselves of the world and face this in another universe--for us to say we don't care and will not consider what the effect of this recommended relief may be on the general public good is a shame--on us, on the ITC, and certainly to deny the President, if he exercises it --if he ever had the power--is going to have to make a decision where he says here is the general public good and here is the effective industry; I am going to opt on the side of the general public good, and he knows that he will have to take grief and criticism from the affected industries but that is part of the political problem and part of leadership.

And for us to deny to the principal leader of the country the right to make a decision based upon the general public good, I think, would be a tragedy. So, I would offer this amendment, Mr. Chairman, and I think they all have it before

them. It simply allows the President to include in this decision the national economic interest; and if the committee adopts this narrative proposal, I would include within it his right to consider the effect on consumers when I draft it. And even if the President is allowed to consider that and makes the decision based upon national economic interest, this amendment would still require him to give automatic adjustment assistance for workers in the affected industry and also recommend other measures regarding regulatory changes or legislative proposals or multilateral negotiations.

But I hope we will not deny to ourselves and to the President and to the ITC the right to consider the general public good when they make a decision.

The Chairman. If I may comment on that? Let me state first that we are not talking just about old industries. We are talking about industry in general. You look at a situation where you have escalation in the value of the dollar as compared to the yen of 40 to 45 percent; it wasn't just because American management suddenly became stupid and lazy. It wasn't just because American labor decided to quit working. We ran into a situation where you had a 100 yard dash to the marketplace, and all of a sudden you gave the competition a 40 to 45 yard head start. That was the net result.

So, you are having to look at a situation where you

say, yes, the consumers will pay something for temporary relief to try to save an industry, to try to save something that we think is important in keeping jobs in this country, to try to do something to turn around a trade imbalance that is costing this country $170 billion year. Yes, we have been subsidizing consumers in this country, and we have had an incredible amount of consumption taking place; and yes, we have discouraged savings as we encouraged those consumers.

Yes, a price is to be paid to try to keep stability and a broad breadth of industry in this country, and it is imperative that we do that. And if we say that we put back in what Senator Packwood is talking about, we are talking about giving total discretion to the President once again.

What we are trying to do is to encourage adjustment in this country, to try to give us some stability. We are going through agony. We are only talking about a small percentage of those people, but that is still millions of our people; and that is why it is important.

But I think we need to defeat what Senator Packwood is proposing and we get back to what we have been working with a number of the Senators on in trying to make Section 201 work; and I would urge that we oppose it.

We have a vote at 11:30, and I am trying to get two votes out. So, would you keep that in mind? Senator Danforth?

Senator Danforth. I would hope that we would defeat the

Packwood amendment. Just to restate what I think everybody knows, the situation now is that 201 is so poor that industries such as the textile industry don't avail themselves of it. The shoe case was a case in point. Here was a case where there was 75 to 80 percent import penetration, a unanimous finding of industry; and the President did nothing.

In this case--the shoe case--the President believed that application of the 201 was not in the national economic interest. He believed that 201 was a protectionist situation; and what happened as a result of that was there was, as we all know, intense pressure on Congress to enact a textile bill, to enact specific legislation. I think if we are to avoid a sectoral approach in international trade, if we are to avoid the kind of political approach where the strongest industries are able to get relief from Congress because the system itself doesn't work and they go to Congress, the weaker industries are left out on the drying line.

I think that that is really unfortunate. The idea of the amendment that Senators Bentsen and Heinz have proposed is to try to put new life in a generic provision in our trade law. I think this is a classic case where, if the generic provision is not made to work, then there is going to be increasing political pressure on Congress to adopt sectoral remedies. So, I would strongly oppose the Packwood amendment.

The Chairman. Gentlemen, I would like to call for a vote

if I can. I am trying to get two votes in and trying to avoid, as requested by many, that I not move us into the afternoon. Could I do that?

Senator Mitchell. I will hold off in that case.

The Chairman. Please call the roll on Senator Packwood's amendment.

The Clerk. On the Packwood amendment. Mr. Matsunaga?

(No response)

The Clerk. Mr. Moynihan?

The Chairman. Senator Moynihan is no by proxy.

The Clerk. Mr. Baucus.

Senator Baucus. No.

The Clerk.. Mr. Boren?

(No response)

The Clerk. Mr. Bradley?

The Chairman. No by proxy.

The Clerk. Mr. Mitchell?

Senator Mitchell. No.

The Clerk. Mr. Pryor?

Senator Pryor. No.

The Clerk. Mr. Riegle?

Senator Riegle. No.

The Clerk. Mr. Rockefeller?

Senator Rockefeller. No.

The Clerk. Mr. Daschle?

Senator Daschle. No.

The Clerk. Mr. Packwood?

Senator Packwood. Aye.

The Clerk. Mr. Dole?

Senator Packwood. Aye.

The Clerk. Mr. Roth?

Senator Packwood. Aye.

The Clerk. Mr. Danforth?

Senator Danforth. No.

The Clerk. Mr. Chafee?

Senator Chafee. Aye.

The Clerk. Mr. Heinz?

Senator Heinz. No.

The Clerk. Mr. Wallop?

Senator Packwood. Aye.

The Clerk. Mr. Durenberger?

Senator Packwood. Aye.

The Clerk. Mr. Armstrong?

Senator Armstrong. Aye.

The Clerk. Mr. Chairman?

The Chairman. No.

The Clerk. Seven yeas, eleven nays.

The Chairman. All right. Now, we will call for a vote on the chairman's proposal. That is the one we have had before us.

Senator Chafee. Can I have two quick votes, one on the ITC Commissioners not being able to participate unless they were the ones who found injury? They cannot even recommend a remedy.

The Chairman. All right. Do you propose that as a further amendment?

Senator Chafee. Yes. I would say that all Commissioners participate, as the present law permits.

The Chairman. Senator Heinz?

Senator Heinz. Mr. Chairman, I just want to say in 30 seconds that I hope Senator Chafee's amendment is defeated. The amendment, as it is drafted, conforms with what has been over 30 years the practice of the Commission, and I hope that Senator Chafee's amendment will be defeated.

Senator Chafee. Let me just say to Mr. Holmer: Is that true as of now?

Mr. Holmer. That what?

Senator Chafee. That Commissioners who do not participate in the serious injury finding do not participate in the remedy?

Mr. Holmer. My understanding of the most recent ITC reports that I have read is that they do submit their views with respect to the remedy recommendation.

Senator Chafee. Yes. I think to deprive the President of the views of the entire Commission that he appointed doesn't

make any sense at all. If they don't want to do it, that is their business.

The Chairman. Let me state that I oppose the Senator's amendment. I think the point has been well made by Senator Heinz and Senator Mitchell in that regard. Let me have this by oral vote and see if we can get a strong enough feeling.

Senator Chafee. How about a showing of hands? That would be better.

The Chairman. All right, a showing of hands. All in favor of Senator Chafee's amendment make it known by a show of hands.

Senator Armstrong. Mr. Chairman?

The Chairman. Yes?

Senator Armstrong. It seems to me that this is a significant enough issue that it justifies a roll call, and it will only take an instant.

The Chairman. All right. Let's call the roll.

The Clerk. On the Chafee amendment. Mr. Matsunaga?

(No response)

The Clerk. Mr. Moynihan?

The Chairman. Mr. Moynihan is no by proxy.

The Clerk. Mr. Baucus?

Senator Baucus. No.

The Clerk. Mr. Boren?

(No response)

The Clerk. Mr. Bradley?

The Chairman. No by proxy.

The Clerk. Mr. Mitchell?

Senator Mitchell. No.

The Clerk. Mr. Pryor?

Senator Pryor. No.

The Clerk. Mr. Riegle?

Senator Riegle. No.

The Clerk. Mr. Rockefeller?

Senator Rockefeller. No.

The Clerk. Mr. Daschle?

Senator Daschle. No.

The Clerk. Mr. Packwood?

Senator Packwood. Aye.

The Clerk. Mr. Dole?

Senator Packwood. Aye.

The Clerk. Mr. Roth?

(No response)

The Clerk. Mr. Danforth?

Senator Danforth. No.

The Clerk. Mr. Chafee?

Senator Chafee. Aye.

The Clerk. Mr. Heinz?

Senator Heinz. No.

The Clerk. Mr. Wallop?

Senator Wallop. Aye.

The Clerk. Mr. Durenberger?

Senator Packwood. Aye.

The Clerk. Mr. Armstrong?

Senator Armstrong. Aye.

The Clerk. Mr. Chairman?

The Chairman. No.

The Clerk. Six yeas, eleven nays.

Senator Chafee. Now, Mr. Chairman, I would move that language be placed in there that the ITC require industry to submit plans. Now, Senator Heinz misportrayed inadvertently my proposal. It wasn't that when the President comes into the monitoring that every single item must be observed, but absent some kind of an adjustment plan, the President has nothing to check and see how they have done.

So, I would require--as your original legislation did, but absent that the plan be prepared by Commerce, Labor, etcetera--that that be in the statute, similar to Senator Rockefeller's proposal. He wanted it in the report language. I would like to see it in the legislation.

The Chairman. I would say, Senator, that that certainly was in our original proposal, and I would have like to have had it. I became convinced finally that it was not practical where you have maybe three companies that said yes, we will comply and we would send them the plans and the fourth said

they wouldn't; then it became a situation where it could not be properly administered; and therefore, we changed it.

Senator Armstrong. Mr. Chairman, why can't we draft it that way?

The Chairman. We tried.

Senator Armstrong. That the industry submit such a plan, even though every single component of the industry might not. It seems to me that wouldn't be hard to do.

The Chairman. We have done everything that we can right up to the point of making it absolutely manddtory to include that, and that is what we debated earlier.

Mr. Lang. I think, Mr. Chairman, you might be able to satisfy some of Senator Chafee's concerns by requiring the industry to submit plans but not making it a condition for getting relief.

Senator Chafee. I thought I made that clear. It is not a condition to get relief, but it gives some kind of check points for the President to look at and see how they have done. Maybe they haven't done any of them, and he can still give relief; but at least it gives him something to go by.

Mr. Lang. I am not sure you want to decide this right now. Maybe we could work with Senator Chafee's staff and see if there is some way because I know you feel strongly about getting as much up front as we can.

The Chairman. There are several around this room who

feel we ought to make it to the extent we can and still try to make it work.

All right. That is the vote. Can we settle for that and see if we can work it out?

Senator Chafee. Well, that is the biggest victory I have had here in two days, Mr. Chairman.

(Laughter)

The Chairman. All right. With that and the vote, can we have a vote on the chairman's proposal?

Senator Baucus. Mr. Chairman?

The Chairman. Yes?

Senator Baucus. I assume this is not going to include other Section 201 amendments?

The Chairman. No, it does not. All right. With Senator Chafee's, we are going to try to work his out.

All right. Now, let's have a vote on the chairman's proposal. All of those in favor make it known by a show of hands.

(Showing of hands)

The Chairman. Opposed?

(Showing of hands)

Senator Chafee. This is your proposal?

The Chairman. That is correct.

Senator Chafee. Well --

(Laughter)

The Chairman. Let the word go forth.

Senator Chafee. I have been swept away by my victory a few moments before --

(Laughter)

The Chairman. Let's regard the number who are for it, though, and then the number who are opposed.

Let's have a show of hands again for it.

(Showing of hands)

The Clerk. Nine.

The Chairman. Opposed?

(Showing of hands)

The Clerk. Four.

The Chairman. All right. Senators Bradley and Moynihan would like to be recorded for it. All right? Now, how many do we have?

The Clerk. That would make 11 in favor, three here were opposed and we are adding Senator Dole in opposition, and Senator Wallop in opposition.

The Chairman. And Senators Bradley and Moynihan in favor of it.

The Clerk. With Bradley and Moynihan, that would make it 11 to 5.

The Chairman. All right, thank you. Gentlemen, with that in mind, we will not come back this afternoon and tonight.

We will go vote and we stand in recess. Thank you.

(Whereupon, at 11:30 a.m., the meeting was recessed, to be reconvened on Tuesday, May 5, 1987 at 9:30 a.m.)

C E R T I F I C A T E

This is to certify that the foregoing proceedings of an Executive Session of the Committee on Finance, held on May 1, 1987, were held as appears herein and that this is the original transcript thereof.

WILLIAM J. MOFFITT
Official Court Reporter

My Commission expires April 14, 1989.